THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.11633 of 2007

Date: 15.06.2007

Between:

P.Appala Naidu.

....Petitioner

and

The Sub-Registrar.

....Respondents

O R D E R:

The petitioner is an Ex-Serviceman. He was assigned an extent of Ac. 2.82 cents of Agricultural land in Survey No.367/4 of Desapatrunipalem Village, Paravada Mandal, Visakhapatnam District, by the competent authority vide proceedings dated 29.06.1993. The petitioner states that on account of his old age, he is unable to maintain the property and that he intends to sell the same. He complains that the Sub-Registrar, Visakhapatnam District, is refusing to entertain the deed for registration on the ground that the land is notified as an assigned one and that he is requiring the petitioner to obtain 'no objection certificate' from the Mandal Revenue Officer. He challenges the action of the respondent.

Heard the learned counsel for the petitioner.

The learned Government Pleader for Revenue submits that in view of the prohibition contained in Section 5 of the A.P. Assigned Lands (Prohibition of Transfer) Act, 1977, it became imperative for him to insist for 'no objection certificate' from the Mandal Revenue Officer. The plea of the petitioner that he is entitled to sell the property on expiry of 10 years from the date of assignment as per G.O.Ms.No. 1117 dated 11.11.1993 is not seriously contested. He places reliance upon a Memo, dated 29.11.2005, issued by the Commissioner and Inspector General of

Registration and Stamps, Hyderabad, and submits that unless there is a clear circular as to the alienability of the land, the document cannot be admitted to registration.

It is not in dispute that the land referred to above was assigned to the petitioner in his capacity as an Ex-Serviceman. Though a general prohibition operates against alienation of assigned lands, the Government had maintained the distinction, as regards the lands assigned in favour of Ex-Servicemen. After taking into account the various aspects that are involved in the matter, the Government issued orders in G.O.Ms.No. 1117 dated 11.11.1993 permitting the alienation of the lands assigned to Ex-Serviceman, after expiry of 10 years from the date of the assignment. It is in this context that the Mandal Revenue Officer and the Revenue Divisional Officer of the concerned areas, have certified that the petitioner is entitled to alienate the land assigned to him, in terms of the G.O referred to above. Such a certification though not necessary, is more than sufficient to clear the doubt entertained by the respondent. When the case of the petitioner is clearly covered by a specific G.O.Ms.No. 1117 dated 11.11.1993, issued by the Government, the respondent cannot still insist on 'no objection certificate' from the Mandal Revenue Officer. For the same reason, the Memo, dated 29.11.2005, cannot be treated as the basis to deny registration of documents.

For the foregoing, the Writ Petition is allowed and the respondent is directed to receive the documents that may be presented by the petitioner and consider the same for admitting them to registration, without applying any prohibition on the ground that it is an assigned land, provided that the revenue authority not below the rank of the Mandal Revenue Officer certifies about genuinity of the assignment and a period of ten years had elapsed

from the date of assignment. There shall be no order as to costs.

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15.06.2007

kdl